IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

WP(C).No. 31891 of 2007(V)

PETITIONER:

M/S. TRAVANCORE CLUB, THIRUVALLA
REPRESENTED BY ITS PRESIDENT.

BY ADV. SRI.P.HARIDAS

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY**
   PRINCIPAL SECRETARY, DEPARTMENT OF TAXES,
   THIRUVANANTHAPURAM.

2. **THE SALES-TAX APPELLATE TRIBUNAL**
   THIRUVANANTHAPURAM.

3. **DEPUTY COMMISSIONER (APPEALS)II**
   COMMERCIAL TAXES, KOLLAM.

4. **ASST. COMMISSIONER OF COMMERCIAL TAXES**
   AUDIT ASSESSMENT, PATHANAMTHITTA.

5. **DEPUTY TAHSILDAR, REVENUE RECOVERY**
   THIRUVALLA.

6. **COMMERCIAL TAX OFFICER, THIRUVALLA.**

BY GOVERNMENT PLEADER SRI.K.P.PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 31891 OF 2007 V
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Dated this the 30th day of October, 2007

J U D G M E N T

Against Exts. P1 and P2 orders of assessment, petitioner filed appeals, which were dismissed by the Appellate Authority as per Ext.P4. The reason for the said dismissal was that the petitioner had not complied with the condition of pre-deposit.

2. It is the contention of the petitioner that though there was such a requirement at the time when the appeal was filed, the said condition was deleted with effect from 01/04/07 and therefore, when the appeal was dismissed on 10/5/07, such condition was no longer there in the statute book. Petitioner pursued the matter before the Tribunal and Ext.P5 is the appeal that is pending.

3. However, revenue recovery proceedings have been initiated as per Exts. P6 and P7 and it is challenging the revenue recovery proceedings, the present writ petition has been filed. The only ground on which the appeal has been rejected is the

non compliance with the condition of pre-deposit and it is a matter for the Appellate Authority to consider whether that was required to be satisfied for entertaining the appeal. At this stage, I am only concerned with the revenue recovery proceedings.

Now that appeal is pending before the Tribunal, which is yet to be entertained or considered, I dispose of this writ petition directing that further proceedings pursuant to Exts. P6 and P7 shall be deferred, until orders are passed in the appeal. However, this shall be conditional and the petitioner shall remit an amount of Rs.2,00,000/- (Rupees two lakhs only) within two weeks from today.

ANTONY DOMINIC, JUDGE.

Rp